

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**WORKSESSION MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, March 19, 2008, 9:30 a.m.**

**ACTION ITEMS:**

1. **Minutes**, March 12, 2008 Worksession.

Action: Approved, (CLH/WMH, 4-0).

2. **A-5950, Appeal of Renata M. Gould** (Historic Preservation Commission – Historic Area Work Permit). Letters from the appellant requesting reconsideration.

Action: (1) Re-opened the record to include appellant's letter dated 2/11/08; (2) appellant to submit a written summarized statement of the information not presented at the administrative appeal public hearing and to also provide this information to the County Attorney, (DKP/CLH, 4-0).

3. **A-6246, Appeal of Atman Corporation by Seyi Oyenuga** (Department of Permitting Services – Notice of Violation). Letters to the Board from Stuart Rochester, Chair, Fairland Master Plan CAC, requesting to intervene.

Action: (1) Granted requests to intervene and the standing to participate will be determined at the pre-hearing conference; (2) staff to contact parties about attendance at the pre-hearing conference, (DKP/WMH, 4-0).

4. **CBA-864 [CBA-864-A, CBA-1233, CBA-2397, S-380] Petition of Potomac Swim and Recreation Association** (community swimming pool). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification. [Large exhibit: site plan].

Action: (1) Granted administrative modification; (2) site plan approved as a concept plan and will be effective once the subject property is sold, (DKP/CLH, 4-0).

5. **CBA-969-A, Petition of Millenium Health Services** (nursing home or domiciliary care home). Status update on the compliance of the special exception.

Action: (1) Petitioner has hired engineer to develop a special exception site plan; (2) prior to applying for building permits the petitioner will submit to the Board the proposed site plan, consensus.

6. **CBA-2437, Petition of Mamie L. Privette** (child day care facility). Memorandum from Heather Gottke, Inspector, Department of Permitting Services (DPS) notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (CLH/WMH, 4-0).

7. **CBA-2834, Petition of Kenneth H. Kelley** (private riding stable). Memorandum to the Board from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (DKP/WMH, 4-0).

8. **CBA-3082, Petition of Latzen and Hotchkiss, D.P.M., P.C.** (non-resident medical practitioner). Memorandum to the Board from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (CLH/DKP, 4-0).

9. **S-400, Petition of Yamaha Music School** (private educational institution). Memorandum to the Board from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (WMH/DKP, 4-0).

10. **S-535 [CBA-2212, CBA-2212-A, CBA-2614], Petition of Flower Valley Bath & Racquet Club, Inc.** (community swimming and tennis club). Letter to the Board from Hope Liverman, Legal Assistant, submitting the Club's annual report.

Action: (1) Re-opened the record to include Ms. Liverman's letter; (2) the petitioner to submit revised annual report regarding the tennis court operations, consensus.

11. **S-2622, Petition of Terrabrook Clarksburg, LLC by Gary Modjeska** (child day care facility). Memorandum from Françoise Carrier, Director, Office of Zoning and Administrative Hearings, notifying the Board that the special exception has been withdrawn and requesting that it be dismissed.

Action: Dismissed the special exception as abandoned, (CLH/DKP, 4-0).

#### **DECISION ITEMS:**

12. **S-2713, Petition of Bradley D. Stewart** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation;  
(2) granted the special exception with conditions, (CLH/WMH, 4-0).

13. **S-2717, Petition of Adirne A. Besiryan** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation;  
(2) granted the special exception with conditions (WMH/DKP, 4-0).

#### **PENDING ITEMS:**

14. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07 [W/S 10/25/06]. (1) Re-opened the record to include the status report from Mr. Brown; (2) Mr. Brown to provide a status/progress report to BOA at its 5/2/07 Worksession [W/S 2/28/07]. Status Report from Todd Brown, Esquire [W/S 10/17/07].
15. **A-6190, Appeal of Amanda Enterprises, LLC** (Department of Permitting Services – Notice of Violation dated November 13, 2006 and Use and Occupancy Certificate No. 250849). BOA to receive a status report from the appellant by 6/15/07 [Pre-hearing Conference held on 3/14/07].
16. **A-6236, Appeal of Ronald A. Pomykala** (Department of Housing and Community Affairs – Letter dated October 24, 2007). Letter from Nowelle Ghahhari, Assistant County Attorney, notifying the Board that the Notice of Violation has been withdrawn and requesting that the administrative appeal be dismissed without prejudice. (1) Opened the record to include Ms. Ghahhari's letter; (2) staff to contact the appellant regarding withdrawing the administrative appeal [W/S 3/12/08].

**PENDING ITEMS (continued):**

17. **CBA-867 [CBA-2048, S-717, S-717-A, S-1187], Petition of Our House, Inc.** (hospital, sanitarium, nursing or care home). Letter to the Board from Stuart Barr, Esquire, and April Birnbaum, Esquire, requesting clarification of the appropriate special exception use category. (1) Re-opened the record to include Mr. Barr's and Ms. Birnbaum's letter; (2) item deferred for additional information regarding how the current use conforms to the current criteria [W/S 2/20/08].
18. **CBA-1174-D [S-2467, S-2503-A], Petition of Holton Arms School** (private educational institution, child day care facility, summer camp). Comments and analysis from Martin Klauber, People's Counsel, regarding Condition No. 5 of the Board's Opinion dated 1/5/07. Re-opened the record to include Mr. Klauber's comments and analysis; (2) Board to schedule a hearing on a.m. and p.m. queuing and the trip generation rates [W/S 1/23/08].
19. **CBA-1196, Petition of Joseph F. Fernebok, CBA-1472, Petition of Farragut St. Venture and Theo R. Crutchfield, S-35, Petition of G. A. Schlesinger** (off-street parking). Letter to the Board from Stanley Abrams, Esquire, requesting an extension of time to permit the submission of a revised site plan and a forthcoming administrative modification request in connection with Case No. S-35. (1) Re-opened the record to include Mr. Abrams' letter; (2) granted a 45-day extension of time [W/S 1/23/08].
20. **CBA-2924, Petition of RMC Partnership** (medical and dental clinic). Letters to the Board from Jane Ho, Esquire, and Benjamin Akintan, Rph, requesting a transfer and an administrative modification (Large exhibits: cover sheet, existing and demolition plan, modification elevations, construction details, survey). Item deferred for additional information [W/S 7/18/07].
21. **S-569 [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery and retail sales). Letter to the Board from Rebecca Walker, Esquire, requesting an administrative modification [Large exhibit: existing conditions plan]. Also included on behalf of the Orchard Knolls Homeowners Association is a letter from David Gardner, Esquire. Re-opened the record to include the letter from Ms. Walker and the memorandum from Ms. Piczak; (2) schedule Show Cause Hearing; (3) administrative modification request deferred [W/S 1/23/08].
22. **S-692, Petition of Potomac Conference Corporation of Seventh Day Adventists** (charitable and philanthropic institution). Letter to the Board from Anthony Bruce, Assistant to the Director, requesting an administrative modification [Large exhibits: location plan, site plan, plan details, elevations]. (1) Re-opened the record to include Mr. Bruce's letter with attachments; (2) the Board requested additional information regarding the special exception meeting the parking requirements after the administrative modification [W/S 1/23/08].

**PENDING ITEMS (continued):**

23. **S-2132, Petition of Edwin J. Hungerford** (manufacture of mulch). Letter of complaint to the Board from the petitioner. (1) Re-opened the record to include the petitioner's letter; (2) DPS to send abandonment letter to the petitioner and will notify BOA of the response [W/S 3/12/08].
24. **S-2359, Petition of Potomac Foods Company III, Inc.** (drive-in restaurant). Letter to the Board from Clara Willis, District Manager, requesting an administrative modification. Item deferred for additional information about the number of trips during the current hours of operation and anticipated trips during the expanded hours [W/S 1/9/08].
25. **S-2471, Petition of Kids 'N Care Learning Center** (child day care facility). Letter from Casey Moore, Esquire, submitting the additional information requested by the Board on the special exception staff parking. Item deferred until 1/9/08 Worksession [W/S 12/12/07].

**Board Members**

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**Staff**

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